IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6992 OF 2007

Indira Coop.Housing Soc. & Ors. .. Petitioners
Versus
Manikrao N. Patil & Ors. .. Respondents

Mr.S.S.Kanetkar for pertitioners

CORAM : S.C.DHARMADHIKARI, J.
DATE : 3rd December 2007

P.C.

. This petition under Article 227 of Constitution of India challenges concurrent orders of the courts below, refusing to grant interim relief in favour of present petitioners during the pendency of their dispute before the Coop.Court.

2. The grievance of Mr.Kanetkar is that the lower appellate court has made sweeping

observations touching merits of the matter and also faulted petitioners for approaching the courts below after considerable delay. He submits that there is complete explanation for alleged delay. Further this is a matter where some of the members of the society are usurping the property and rights of the society as such unto themselves. Such being the nature of the dispute the courts below ought to have granted some interim reliefs so that status quo at site is maintained.

3. Having perused the interim orders with the assistance of Mr.Kanetkar, I am of the view that there is no reason to interfere with the same. More so, when prima facie, the cause of delay has also been found against the petitioner. However, there is substance in the contention of Mr.Kanetkar that certain general and sweeping observations, touching the merits of the matter have been made, especially, by the lower

appellate court. In such circumstances, all that can be directed is that these observations may be treated purely tentative and prima facie. They are made only during the course of decision on the interim reliefs application and shall not influence the court below while trying the dispute, which must be tried on its own merits and in accordance with law. The trial court to endeavour and dispose of the dispute as expeditiously as possible.

4. In case the petitioners have any apprehension with regard to the status quo at site being disturbed, even at this stage, they can approach the trial court for appropriate interim protection and the trial court to consider the said request based upon subsequent development uninfluenced by any observations made in the earlier orders so also dismissal of the petition by this Court. Petition dismissed with the above clarification.

(S.C.Dharmadhikari, J)